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09/870,377	05/30/2001	Nick J. Pudar	GP-300259	7233

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EXAMINER

JANVIER, JEAN D

ART UNIT PAPER NUMBER

3622

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/870,377

Applicant(s)

PUDAR, NICK J.

Examiner

Jean D Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

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## DETAILED ACTION

### **Specification**

The abstract of the disclosure exceeds fifteen lines (i.e. being over 150 words). A corrected abstract is required. See 37 CFR 1

### **Status of the claims**

Claims 1-45 are currently pending in the Instant Application.

### **Claim Objections**

Claims 27-45 are objected to because of the following informalities:

Concerning claims 27-45, "A radio system..." should apparently be --The radio system....--.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicant regards as

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the invention. In fact, the claim recites, in line 5, "...advertisement **can** be confirmed using the transmitted identification data". Here, the introduction of "**can**" in the claim language renders the claim indefinite.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 16-19, 21- 25, 26-41 are rejected under 35 USC 102(b) as being anticipated by Dimitriadis, US Patent 5, 664, 948A.

As per claims 1-13, 16-19, 21- 25, 26-41, Dimitriadis discloses a system, wherein an advertising information is pre-loaded into a collection of remote receiving and presentation devices (40) (radios installed in vehicles). A presentation command (presentation condition or selection criteria) is broadcast over a radio broadcast 20 to a device (40) that causes presentation, in audio or text format, of at least one of the advertisements stored in the memory of the device (40) (monitoring a radio broadcast stream for marker data of an advertising slot within the radio broadcast stream, which triggers the presentation of the at least one stored advertisement). Each stored advertisement is also associated with one or more presentation conditions (play

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conditions) causing, when detected for example in a radio broadcast (stream) transmitted to a device 40 (or a group of devices 40), automatic presentation or play via the device 40 speaker or display through its screen of the corresponding advertisement matching the presentation conditions or marker data present in the radio broadcast stream. Such presentation conditions include proximity to a given location (detecting the presence of the vehicle 10 having installed therein device 40 in a geographical area of interest), scheduled periodic presentation, time of day presentation, and a variety of other conditions detectable at the remote presentation device 40 (including detecting the presence of a command or marker in a radio broadcast transmitted to the device 40). Further, the advertising presentation system requires a single broadcast signal transmission of a given advertisement from radio broadcast 20 (radio facility) for permanent storage in the memory of the device 40, but provides multiple presentations or plays of the advertisement at the presenting devices 40. Here, the advertiser enjoys efficient use of broadcast signal transmission time (See abstract).

In general, Dimitriadis teaches an advertising system comprising a radio broadcast or signal transmission facility providing voice and data broadcast signals 22 and 26 respectively (advertisements or messages) and a plurality of remote receiving devices 40 (vehicle radio systems) collecting said voice and data signal broadcasts 22 and 26 respectively, each of said receiving devices 40 storing **selected** ones of said voice and data broadcasts 22 and 26 as stored advertisements therein in association with index values (or secondary selection data) (wherein the selected advertisements are chosen for storage according to certain criteria, such as geographical areas of interest to a specific device 40, and wherein each advertisement has an associated index value) whereby **subsequent** transmission within at least one of said voice and

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data broadcasts (in-line advertisements) references said index values, indicative of advertising slots or markers, and causes said remote receiving device to retrieve therefrom and present or play the corresponding stored advertisements (transmitting a radio broadcast stream with a marker or reference to an index value to a device 40 and if there is a match between the transmitted reference index value or marker in the broadcast and an index value stored in the memory of the device 40, then the system is operable to retrieve therefrom and play or present the corresponding advertisement). Each of said remote receiving devices 40 store a plurality of advertisements, each associated with an index value, uniquely identifying each advertisement, whereby said broadcast facility triggers presentation play of a selected stored advertisement at a selected remote receiving device 40 by broadcasting a command to the selected receiving device 40 in conjunction with a selected index value. Further, each stored advertisement is associated with a condition for presentation, include at least one of a schedule of presentation, proximity to a designated location, **and time of day (primary and secondary selection data)**, and each remote receiving device 40 monitors current conditions, compares current conditions to said conditions for advertisement presentation, and presents a stored advertisement upon finding a match between a current condition and a condition for presentation. In short, the present system relates generally to vehicle information and particularly to vehicle information collection and presentation (See claims 1-5; col. 2: 3-29).

In another embodiment, Dimitriadis teaches a paging system that supports group addressing whereby a single paging data packet transmission or broadcast may be addressed to groups of receiving devices 40 (to listeners of devices 40). Accordingly, advertising presentation may be accomplished relative to listeners defined as groups. For example, by developing a

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profile for the users of each device 40, e.g., age, class of neighborhood (demographics), typical products purchased (purchase history) and the like, as is typically done in advertising strategies, the advertiser defines groups of listeners. By loading into receiving devices 40 advertisements tailored to group needs (interests), the advertiser targets specific audiences with specific advertising messages. Moreover, one advertisement may be loaded into one group of receiving devices 40 while a second advertisement is loaded into a second group of receiving devices 40. Even though different advertisements are loaded into different receiving devices 40, all such advertisements may be associated with the same index. Accordingly, issuance of the PRESENT command 500c relative to such common index value causes distinct advertisement presentation for different groups of listeners. As may be appreciated, the radio signal transmission time associated with issuing the PRESENT command 500c is quite small as compared to similar advertisement broadcast time required to deliver by conventional means the same advertisement presentation, i.e., broadcast time required to present the advertisement to listeners currently tuned to the broadcast facility. Thus, an improved method and apparatus for message or advertisement presentation has been herein shown and described. Advertisement information is disseminated widely by radio signal broadcast to a population of receiving devices 40. The receiving devices 40 store this advertising information and present such information **multiple times** without requiring repeated radio signal transmission from the facility. In this manner, advertising presentation is made efficient with respect to radio transmission resources, and therefore less costly in regard to the costs associated with transmission of advertisement by radio signal (Col. 9: 45 to col. 10:20).

See in general col. 2: 62 to col. 9: 44.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 15, 20, 42, 43, 44 and 45 are rejected under 35 USC 103(a) as being unpatentable over Dimitriadis, US Patent 5, 664, 948 in view of Hite, US Patent 5,774,170A.

As per claims 14, 15, 20, 42, 43, 44 and 45, Dimitriadis discloses a system, wherein an advertising information is pre-loaded into a collection of remote receiving and presentation devices (40) (radios installed in vehicles). A presentation command (presentation condition or selection criteria) is broadcast over a radio broadcast 20 to a device (40) that causes presentation, in audio or text format, of at least one of the advertisements stored in the memory of the device (40) (monitoring a radio broadcast stream for marker data of an advertising slot within the radio broadcast stream, which triggers the presentation of the at least one stored advertisement). Each stored advertisement is also associated with one or more presentation conditions (play conditions) causing, when detected for example in a radio broadcast (stream) transmitted to a device 40 (or a group of devices 40), automatic presentation or play via the device 40 speaker or



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display through its screen of the corresponding advertisement matching the presentation conditions or marker data present in the radio broadcast stream. Such presentation conditions include proximity to a given location (detecting the presence of the vehicle 10 having installed therein device 40 in a geographical area of interest), scheduled periodic presentation, time of day presentation, and a variety of other conditions detectable at the remote presentation device 40 (including detecting the presence of a command or marker in a radio broadcast transmitted to the device 40). Further, the advertising presentation system requires a single broadcast signal transmission of a given advertisement from radio broadcast 20 (radio facility) for permanent storage in the memory of the device 40, but provides multiple presentations or plays of the advertisement at the presenting devices 40. Here, the advertiser enjoys efficient use of broadcast signal transmission time (See abstract).

In general, Dimitriadis teaches an advertising system comprising a radio broadcast or signal transmission facility providing voice and data broadcast signals 22 and 26 respectively (advertisements or messages) and a plurality of remote receiving devices 40 (vehicle radio systems) collecting said voice and data signal broadcasts 22 and 26 respectively, each of said receiving devices 40 storing **selected** ones of said voice and data broadcasts 22 and 26 as stored advertisements therein in association with index values (or secondary selection data) (wherein the selected advertisements are chosen for storage according to certain criteria, such as geographical areas of interest to a specific device 40, and wherein each advertisement has an associated index value) whereby **subsequent** transmission within at least one of said voice and data broadcasts (in-line advertisements) references said index values, indicative of advertising slots or markers, and causes said remote receiving device to retrieve therefrom and present or

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play the corresponding stored advertisements (transmitting a radio broadcast stream with a marker or reference to an index value to a device 40 and if there is a match between the transmitted reference index value or marker in the broadcast and an index value stored in the memory of the device 40, then the system is operable to retrieve therefrom and play or present the corresponding advertisement). Each of said remote receiving devices 40 store a plurality of advertisements, each associated with an index value, uniquely identifying each advertisement, whereby said broadcast facility triggers presentation play of a selected stored advertisement at a selected remote receiving device 40 by broadcasting a command to the selected receiving device 40 in conjunction with a selected index value. Further, each stored advertisement is associated with a condition for presentation, include at least one of a schedule of presentation, proximity to a designated location, **and time of day (primary and secondary selection data)**, and each remote receiving device 40 monitors current conditions, compares current conditions to said conditions for advertisement presentation, and presents a stored advertisement upon finding a match between a current condition and a condition for presentation. In short, the present system relates generally to vehicle information and particularly to vehicle information collection and presentation (See claims 1-5; col. 2: 3-29).

In another embodiment, Dimitriadis teaches a paging system that supports group addressing whereby a single paging data packet transmission or broadcast may be addressed to groups of receiving devices 40 (to listeners of devices 40). Accordingly, advertising presentation may be accomplished relative to listeners defined as groups. For example, by developing a profile for the users of each device 40, e.g., age, class of neighborhood (demographics), typical products purchased (purchase history) and the like, as is typically done in advertising strategies,

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the advertiser defines groups of listeners. By loading into receiving devices 40 advertisements tailored to group needs (interests), the advertiser targets specific audiences with specific advertising messages. Moreover, one advertisement may be loaded into one group of receiving devices 40 while a second advertisement is loaded into a second group of receiving devices 40. Even though different advertisements are loaded into different receiving devices 40, all such advertisements may be associated with the same index. Accordingly, issuance of the PRESENT command 500c relative to such common index value causes distinct advertisement presentation for different groups of listeners. As may be appreciated, the radio signal transmission time associated with issuing the PRESENT command 500c is quite small as compared to similar advertisement broadcast time required to deliver by conventional means the same advertisement presentation, i.e., broadcast time required to present the advertisement to listeners currently tuned to the broadcast facility. Thus, an improved method and apparatus for message or advertisement presentation has been herein shown and described. Advertisement information is disseminated widely by radio signal broadcast to a population of receiving devices 40. The receiving devices 40 store this advertising information and present such information **multiple times** without requiring repeated radio signal transmission from the facility. In this manner, advertising presentation is made efficient with respect to radio transmission resources, and therefore less costly in regard to the costs associated with transmission of advertisement by radio signal (Col. 9: 45 to col. 10:20).

See in general col. 2: 62 to col. 9: 44.

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As per claims 14, 15, 20, 42 and 43, Dimitriadis does not expressly disclose replaying a stored advertisement a number of times up to a number equal to its associated play count, transmitting by a vehicle communication device data confirming the playing (playback) of the advertisement, retrieved from the memory of the vehicle radio system, and receiving by a central facility the transmitted data (uploading the activity log or transaction data associated with each displayed advertisement to the Central Facility or broadcast system 20).

However, Hite discloses a system and method for delivering targeted advertisements to specific consumers, in a cable TV environment, based on the specific customers' desires, needs, interest, wants or psychographic profile or preferences. In one embodiment, a set top box or delivery mechanism associated with a cable company and located at a customer's site receives a tagged content or TV program with a tagged advertisement (advertisement having a unique CID) from a content provider or Media Origination Facility 300 of fig. 1 wherein the set top box first displays the TV program along with the flagged or tagged advertisement or advertisement having a unique CID code (commercial ID) if the CID code corresponding to the embedded advertisement matches a CID code pre-recorded or stored in the set top box memory and wherein the stored CID represents the customer's psychographic profile or preference. And if there is a CID code match, then the set top box causes the said advertisement to be displayed on the customer's TV screen during a commercial break in the TV program as originally scheduled (figs. 1-2; col. 3: 65 to col. 4: 11; col. 4: 33-39; col. 5: 39-67; col. 8: 64 to col. 9: 42; col. 13: 47-53). In one embodiment, a memory device RD, associated with the home display unit, pre-records the advertising information along with the related CID codes and the system is operable to retrieve therefrom and display an advertisement during a commercial break in a

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transmitted programming or broadcast when a CID in the transmission matches a CID stored in the RD device (col. 6: 60 to col. 7:34).

It is further to be understood that additional codes, such as a **frequency** indicator code representing the number of times an advertisement is to be successfully displayed, are appended to the CID code (representing a customer and/or a commercial) for enhancing the system. The frequency indicator code, stored locally on the set top box memory at the customer's site, is appended to a commercial's CID code wherein the content (counter) of the frequency indicator code decrements for each successful display of the associated commercial or advertisement and when the frequency indicator code reaches zero, the advertisement will no longer be displayed by the set top box. In other words, the number of times a particular advertisement should be displayed to the user or the frequency of viewing (frequency code) by the viewer a particular advertisement is appended to the CID code, representing the viewer's or user's psychographic profile or preference information, stored in the permanent memory (preference information storage) of the set-top box or display device (content delivery mechanism).

Furthermore, a registration code could be added to the CID code and stored at the point of display. When such a commercial is successfully displayed, the registration code is communicated back upstream to the signal origination site. A time and date stamp is added.

Two levels of registration are possible. In the simpler level of registration, a count is accumulated at the origination point or some other suitable place indicating the total number of commercials successfully displayed at all locations. Viewer identities are not tabulated. In the second level of registration, a viewer identification number is included in the acknowledgment messages centrally collected. A certification code could also be added to the CID code and

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stored at the point of display. When such a commercial is successfully displayed, the certification code is communicated back upstream to the signal origination site. A time and date stamp is added. In the case of certification, the viewer responds to the advertisement. This response could be to answer a question, to merely make an acknowledgment, or to request a coupon or other item of value. This indicates that not only has the commercial been successfully displayed, but it has also been viewed, recognized, and acted upon.

Additionally, there are several options for the upstream transmission of registration or certification codes. This code could be transmitted upstream at the time the commercial was successfully received. Alternatively, the fact that it was received could be stored at the receive site and relayed to the signal origination site upon request or at a pre-programmed more convenient time. Several options for upstream communication exist. These include two-way cable systems, **radio transmissions**, telephonic communication, or the physical conveyance of a printed report, a magnetic, optical, electronic or other recorded report.

In summary, with the present system, television (and/or radio) and advertising are enhanced by targeting, delivering and displaying electronic advertising messages (commercials) within specified programming in one or more pre-determined households (or on specific display devices) while simultaneously preventing a commercial from being displayed in other households or on other displays for which it is not intended. Commercials can be delivered to specified homes or displays via either over-the-air broadcast or wired delivery systems.

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the teachings of Hite into the system of Dimitriadis so as to store a

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frequency code register (counter) capable of counting the number of times a filtered or matched advertisement is successfully displayed and a certification code indicative of the successful display of an advertisement along with the user's preference information (profile), advertising selection or presentation criteria and associated index values on the user's vehicle device 40 memory, wherein the content of the frequency code counter increments each time the filtered and matched advertisement is successfully displayed or played to the user until it reaches a preset value and wherein the certification code is communicated from the vehicle radio communication system upstream or upward to the Central Facility for further processing and marketing analysis, thereby using by the Central Facility the transaction data, read from the transmitted registration code, frequency code and certification code, associated with the displayed or played advertisement not only to prepare accurate billing statements for the participating advertiser of the displayed advertisement and to schedule further delivery of advertisements to the mobile unit or device 40, but also to further target the user of the mobile unit or mobile vehicle 10 by filtering incoming broadcasts or advertisements in accordance with the user or operator of the mobile vehicle 10 designated criteria and the user's exposure to advertisements recorded in the memory of the vehicle device 40 or displayed or played advertisements to automatically select and store without the user's input specific advertisements or broadcast data 26 transmitted over the radio broadcast system 20 in the memory or customized database of the information device 40 of the mobile unit or mobile vehicle 10, while measuring the effectiveness of the system..

### **Conclusion**

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached

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at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113. Further, the following fax numbers can be used, if need be, by the Applicant(s):

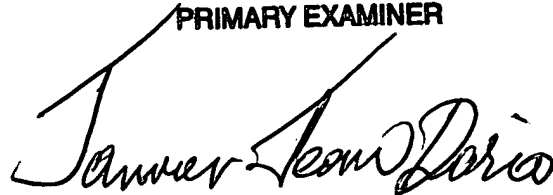
After Final- 703-872-9327 Before Final -

703-872-9326 Non-Official Draft- 703-746-

7240 Customer Service- 703-872-9325

01/22/05

JEAN D. JANVIER  
PRIMARY EXAMINER

A handwritten signature in cursive script that reads "Janvier Jean Dario". The signature is written in black ink and is positioned below the printed name and title.